

JAN 21 2011

S.B. NO. 761

A BILL FOR AN ACT

RELATING TO AGRICULTURAL LEASES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that currently
2 agricultural leases generally are limited to a maximum of
3 thirty-five years. This limitation is a serious hardship for
4 farmers and other agricultural businesses that must rely on farm
5 loan programs, some of which have terms longer than thirty-five
6 years.

7 In 2010, the senate committee on economic development and
8 technology and the house committee on economic revitalization,
9 business, and military affairs convened an informal small
10 business discussion group to address the most critical issues
11 facing the small business sectors within Hawaii's economy.
12 Representatives from the Chamber of Commerce of Hawaii,
13 construction and trades industries, community nonprofits, the
14 agricultural sector, food and restaurant industries, retailing,
15 the science and technology sector, the commercial transportation
16 industry, and interested stakeholders developed a package of
17 bills that address the most pressing problems facing Hawaii's
18 small business community.



1 The purpose of this Act is to support the findings of the
2 small business working group and recommendations to increase the
3 length of those agricultural leases with a thirty-five-year
4 maximum duration to fifty-five years.

5 SECTION 2. Section 171-37, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§171-37 Lease restrictions; intensive agricultural and**
8 **pasture uses.** In addition to the restrictions provided in
9 section 171-36, the following restrictions shall apply to all
10 leases for intensive agricultural and pasture uses:

11 (1) The lease term shall be not less than fifteen years
12 nor more than [~~thirty-five~~] fifty-five years, except
13 that if the type of disposition requires the lessee to
14 occupy the premises as the lessee's own personal
15 residence, it may be longer than [~~thirty-five~~]
16 fifty-five years, but not in excess of seventy-five
17 years, and except in the case of a tree-crop orchard
18 lease the term of which shall not be in excess of
19 [~~forty-five~~] fifty-five years.

20 (2) If the land being leased is not immediately productive
21 and requires extensive expenditures for clearing,
22 conditioning of the soil, the securing of water, the

1 planting of grasses, or the construction of
2 improvements, as the result of which a longer term is
3 necessary to amortize the lessee's investment, then
4 the lease term may be longer than [~~thirty five years,~~
5 ~~but not in excess of~~] fifty-five years.

6 (3) The land leased hereunder, or any portion thereof,
7 shall be subject to withdrawal by the board of land
8 and natural resources at any time during the term of
9 the lease with reasonable notice and without
10 compensation, except as provided herein, for public
11 uses or purposes, including residential, commercial,
12 industrial, or resort developments, for constructing
13 new roads or extensions, or changes in line or grade
14 of existing roads, for rights-of-way and easements of
15 all kinds, and shall be subject to the right of the
16 board to remove soil, rock, or gravel as may be
17 necessary for the construction of roads and rights-of-
18 way within or without the demised premises; provided
19 that upon the withdrawal, or upon the taking which
20 causes any portion of the land originally demised to
21 become unusable for the specific use or uses for which
22 it was demised, the rent shall be reduced in



1 proportion to the value of the land withdrawn or made
2 unusable, and if any permanent improvement constructed
3 upon the land by the lessee is destroyed or made
4 unusable in the process of the withdrawal or taking,
5 the proportionate value thereof shall be paid based
6 upon the unexpired term of the lease; provided further
7 that no withdrawal or taking shall be had as to those
8 portions of the land which are then under cultivation
9 with crops until the crops are harvested, unless the
10 board pays to the lessee the value of the crops; and
11 provided further that upon withdrawal any person with
12 a long-term lease shall be compensated for the present
13 value of all permanent improvements in place at the
14 time of withdrawal that were legally constructed upon
15 the land by the lessee to the leased land being
16 withdrawn. In the case of tree crops, the board shall
17 pay to the lessee the residual value of the trees
18 taken and, if there are unharvested crops, the value
19 of the crops also.

20 "Tree-crop", as used in this section, shall be exclusive of
21 papaya and banana."



1 SECTION 3. Section 171-59, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) Disposition of public lands for airline, aircraft,
4 airport-related, agricultural processing, cattle feed
5 production, aquaculture, marine, maritime, and maritime-related
6 operations may be negotiated without regard to the limitations
7 set forth in subsection (a) and section 171-16(c); provided
8 that:

9 (1) The disposition encourages competition within the
10 aeronautical, airport-related, agricultural,
11 aquaculture, maritime, and maritime-related
12 operations;

13 (2) The disposition shall not exceed a maximum term of
14 [~~thirty-five~~] fifty-five years, except in the case of
15 maritime and maritime-related operations, which may
16 provide for a maximum term of seventy years; and

17 (3) The method of disposition of public lands for cattle
18 feed production as set forth in this subsection shall
19 not apply after December 31, 1988.

20 For the purposes of this subsection:



1 "Agricultural processing" means the processing of
2 agricultural products, including dairying, grown, raised, or
3 produced in Hawaii.

4 "Airport-related" means a purpose or activity that requires
5 air transportation to achieve that purpose or activity.

6 "Maritime-related" means a purpose or activity that
7 requires and is directly related to the loading, off-loading,
8 storage, or distribution of goods and services of the maritime
9 industry."

10 SECTION 4. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 5. This Act shall take effect upon its approval.

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Report Title:

Agricultural Leases; Duration Limits

Description:

Increases the length of agricultural leases with a thirty-five limit to fifty-five years.

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